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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/961,357	09/25/2001	Wolfgang Coronel	YKK 3018	5877
30868	7590	12/05/2003	EXAMINER	
KRAMER & AMADO, P.C.			BEFUMO, JENNA LEIGH	
2001 JEFFERSON DAVIS HWY				
SUITE 1101			ART UNIT	PAPER NUMBER
ARLINGTON, VA 22202			1771	

DATE MAILED: 12/05/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	09/961,357	CORONEL ET AL.
	<b>Examiner</b>	<b>Art Unit</b>
	Jenna-Leigh Befumo	1771

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1) Responsive to communication(s) filed on 17 September 2003.

2a) This action is **FINAL**.      2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4) Claim(s) 1,4 and 9-27 is/are pending in the application.

4a) Of the above claim(s) 16-24 is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1,4,9-15 and 25-27 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. §§ 119 and 120**

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \*    c) None of:

    1. Certified copies of the priority documents have been received.

    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.

    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

13) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

a) The translation of the foreign language provisional application has been received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

**Attachment(s)**

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.

4) Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.

5) Notice of Informal Patent Application (PTO-152)

6) Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Response to Amendment***

1. The Amendment submitted on September 17, 2003, has been entered. Claims 2, 3, and 5 – 8 have been cancelled. Claims 1, 4, and 9 have been amended and claims 25 – 27 have been added. Therefore, the pending claims are 1, 4, and 9 – 27. Claims 16 – 24 are withdrawn from consideration as being drawn to a nonelected invention.
2. The rejections to claims 2, 3, and 5 – 8 are rendered moot by the cancellation of those claims.
3. The Amendment is sufficient to the 35 USC 112 2<sup>nd</sup> paragraph rejections set forth in sections 8 – 10 of the previous Office Action.
4. Additionally, the Amendment is sufficient to overcome the 35 USC 103 rejections to claim 1 based on Gilpatrick (5,447,590) in view of Shepard (WO 00/73063), Gilpatrick in view of Shepard (6,342,285), Gilpatrick in view of Martin (6,045,887), and Gilpatrick in view of Kennedy (5,260,015) since the prior art fails to teach a loop portion of a hook and loop fastener where the loop portion comprises an extruded film with a plurality of rows of pile engaging elements on both side of the film material. Instead, Gilpatrick teaches that the loop portion comprises a paper or fabric backing layer, a film layer, and a pile engaging element layer. The 35 USC 103 rejection to claim 4 based on Gilpatrick in view of Kennedy is also withdrawn since the references do not teach bonding the hook layer to the extruded film layer so that the hooks are bound in place upon hardening of the film layer.

### ***Claim Objections***

5. Claims 1, 4, and 9 are objected to because of the following informalities: the term "sheet-like". It is suggested that the applicant remove the term "like". Appropriate correction is required.

6. Claims 1, 4, 9, 11, and 26 are objected to because of the following informalities: the term "pile-shaped" is objected to since it is unclear if the "pile-shaped" engaging elements actually form a pile surface, or form a surface with elements that are shaped like pile elements. It is suggested that the Applicant remove the phrase "pile-shaped" since is not needed to define the structure of the engaging elements. Appropriate correction is required.

7. Claims 1, 4, and 9 are objected to because of the following informalities: the phrase "a plurality of pile-shaped engaging elements bonded to the first surface of the sheet-like substrate and having a plurality of filaments wound around a core thread" is confusing since it is not readily apparent that the pile-shaped engaging element are made from the plurality of filaments wound around a core thread. Appropriate correction is required.

***Double Patenting***

8. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

9. Claim 9 is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 1 of U.S. Patent No. 6,604,264. Although the conflicting claims are not identical, they are not patentably distinct from each other because the scope of this application includes all the limitations of the loop fastener material in US 6,604,264. Therefore, the scope of the claims overlap.

***Claim Rejections - 35 USC § 102***

10. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

- (a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.
- (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.
- (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

11. Claims 4, 9, 11, 14, and 27 are rejected under 35 U.S.C. 102(e) as being anticipated by Naohara et al. (6,604,264).

Naohara et al. discloses a loop portion of a hook and loop fastener comprising a plurality of pile-like engaging elements fused to the upper region of the elevated portions formed in the first surface of the backing material (abstract). The pile-like engaging elements are formed from entangled yarns produced by feeding two or more multifilament yarns at different feeding speeds and entangling the yarns together (column 11, lines 64 – 67) or by entangling together yarns with different shrinkage rates (column 12, lines 5 – 10). Hence, these yarns would have two yarn components of different lengths, the longer component substantially bulking up and wrapping

around the shorter component. Further, the composite material can have hooks on the second surface of the extruded film (column 14, lines 18 – 21) or an adhesive layer on the second surface (column 17, lines 48 – 60). Thus, claims 4, 9, 11, 14, and 27 are anticipated by Naohara et al.

12. Claims 4, 9, 11, 14, and 27 are rejected under 35 U.S.C. 102(a) as being anticipated by JP 2001061516A.

JP 2001061516A discloses a loop portion of a hook and loop fastener comprising a plurality of pile-like engaging elements fused to the upper region of the elevated portions formed in the first surface of the backing material (abstract). The pile-like engaging elements are formed from entangled yarns produced by feeding two or more multifilament yarns at different feeding speeds and entangling the yarns together or by entangling together yarns with different shrinkage rates (paragraph 46). Hence, these yarns would have two yarn components of different lengths, the longer component substantially bulking up and wrapping around the shorter component. Further, the composite material can have hooks on the second surface of the extruded film (paragraph 55) or an adhesive layer on the second surface (paragraph 69). Thus, claims 4, 9, 11, 14, and 27 are anticipated by JP 2001061516A.

13. Claim 4 is rejected under 35 U.S.C. 102(b) as being anticipated by JP 11046811 A.

JP 11046811 A discloses a loop portion of a hook and loop fastener comprising pile engaging elements placed on the surface of a flat base (abstract). The pile engaging elements are formed by winding filament threads around a core thread (abstract). The base material is formed from a thermoplastic resin to form a continuous film (paragraph 24). Thus, the loop portion comprises an extruded film with rows of pile engaging elements formed from core wrapped

yarns. And as shown in figure 4, the opposite side of the film can comprise hooks which are bound to the film. Therefore, claim 4 is anticipated.

***Claim Rejections - 35 USC § 103***

14. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
15. Claims 9, 14, and 15 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Gilpatrick (5,447,590) in view of Shepard et al. (WO 00/73063) for the reasons of record.
16. Claims 12 and 13 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Gilpatrick in view of Shepard et al. (WO 00/73063) as applied to claim 9 above, and further in view of Shepard et al. (6,342,285) for the reasons of record.
17. Claim 10 stands rejected under 35 U.S.C. 103(a) as being unpatentable over Gilpatrick in view of Shepard et al. (WO 00/73063) as applied to claim 9 above, and further in view of Martin et al. (6,045,887) for the reasons of record.
18. Claims 10 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over JP 2001061516 A in view of Martin et al.

The features of JP 2001061516 A have been set forth above. JP 2001061516 A fails to teach using abrasive material or sand paper on the second side of the loop fastener. Martin et al. teaches using an outer layer of comprising a loop fastener with abrasive sheets is a preferred method of attaching sand paper to a sanding machine (column 2, lines 20 – 25). The sand paper comprises a layer of abrasive mixed with resin, a support medium and the loop fastener (column 3, lines 15 – 20). Therefore, it would have been obvious to one of ordinary skill in the art to use the sand paper taught by Martin et al. with the loop fastener taught by JP 2001061516 A to create

an inexpensive piece of sand paper which can be easily attached to a sand machine, as well as expand the various end products which can be made with the loop fastener. Thus, claims 10 and 25 are rejected.

19. Claims 12, 13, and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over JP 2001061516 A in view of Shepard et al. '285.

The features of JP 2001061516 A have been set forth above. JP 2001061516 A fails to teach attaching fabric layers to the second surface of the base material. Shepard et al. '285 is drawn to an inexpensive loop fabric for use in a hook and loop fastener. Shepard et al. '285 discloses that the loop fabric can be laminated to various products including the outer shell of a diaper (column 10, lines 58 – 59), a carrier film (column 11, line 1), a surgical gown (column 11, lines 8 – 10), a box (column 11, lines 31 – 32), fiber material (column 11, lines 59 – 63), and a foam layer (column 12, lines 11 – 12). Thus, the loop material is bonded to fabric layers, cardboard or paper layers, foams layers, and film layers. Further, Shepard et al. '285 teaches that there are many different backing materials that can be included on the back side of the loop product (column 1, lines 41 – 43). Therefore, it would have been obvious to one of ordinary skill in the art to apply various backing layers including textile materials and paper products, as taught by Shepard et al. '285 to the loop substrate taught by JP 2001061516 A, which is inexpensive and easily manufactured. Also, this would increase the various end products which can be created with the loop fabric. Therefore, claims 12, 13, and 15 are rejected.

20. Claims 1 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over JP 2001061516 A in view of Flynn (4,862,563).

The features of JP 2001061516 A has been set forth above. JP 2001061516 A fails to teach putting the engaging elements on both sides of the substrate. Flynn is drawn to hook and loop fasteners. Flynn discloses a securing strap which is adapted to be placed in an encircling relation about a device to be secured (column 1, lines 6 – 10). As shown in Figure 1, one end of the fastener includes a loop surface on both sides of the backing material which engages with a hook surface at the other end of the strap. Further, Flynn teaches that this fastener having the two gripping interfaces produces a stronger fastener which is harder to dislodge (column 2, lines 53 – 60). Therefore, it would have been obvious to one of ordinary skill in the art to put a loop surface on both sides of the backing as taught by Flynn with the loop material taught in JP 2001061516 A to produce a fastener which is harder to disengage with the loop material that is inexpensive and expand the various end products that can be produced with the loop fastener. Therefore, claims 1 and 26 are rejected.

***Response to Arguments***

21. Applicant's arguments filed September 17, 2003 have been fully considered but they are not persuasive. The Applicant's arguments with respect to claim 9 are not sufficient since claim 9 is not limited to a film substrate comprising the raised portions as discussed in the interview. Therefore, the rejection based on Gilpatrick and Shepard still reads on the claims as amended since the corrugated paper substrate is not excluded from being the sheet-like substrate. Hence the rejections are maintained.

***Conclusion***

22. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Muraski et al. (US 5,441,687) is considered relevant prior art since the reference teaches loop material to one side of an extruded film to produce a hook and loop fastener.

23. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jenna-Leigh Befumo whose telephone number is (703) 605-1170. The examiner can normally be reached on Monday - Friday (8:00 - 5:30). Approximately December 31<sup>st</sup>, the examiner's telephone number will change to (571) 272-1472.

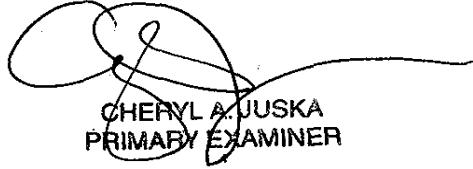
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on (703) 308-2414. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

Jenna-Leigh Befumo  
November 18, 2003



CHERYL A. JUSKA  
PRIMARY EXAMINER